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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/690,946

10/22/2003

John D. Anderson

A-8764

6186

5642

7590

07/28/2006

SCIENTIFIC-ATLANTA, INC.  
INTELLECTUAL PROPERTY DEPARTMENT  
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EXAMINER

CAVALLARI, DANIEL J

ART UNIT

PAPER NUMBER

2836

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/690,946	<b>Applicant(s)</b> ANDERSON ET AL.	
	<b>Examiner</b> Daniel J. Cavallari	<b>Art Unit</b> 2836	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2003 and 18 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☒ Claim(s) 21 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/11/2005</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The examiner acknowledges a submission of the amendment filed on 5/18/2006. The election of claims 1-18, cancellation of claims 19 & 20 and new claims 21-22 are accepted.

#### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 4/11/2005 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 4 & 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to Claim 3

Claim 3 recites the limitation "the second power sources" however "a second power source" is not previously disclosed. There is insufficient antecedent basis for this limitation in the claim.

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The claim will be examined as best understood in which "the second power source" is taken to mean "the primary power source."

In regard to Claims 4 & 18

The limitation of "an inverting switch" is unclear. Both an inverter and a switch are well known electrical components in the art however it is unclear what constitutes an "inverting switch". The claim will be examined as best understood to mean a switch.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, & 12-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Eitan et al. (US 5,886,561).

Eitan et al. teaches:

In regard to Claims 1, 12, 15 & 16

- A threshold voltage detector, read on by comparator (20).
- A first switching circuit, read on by transistor switch (24).
- The threshold detector (20) is configured to cause the first switching circuit to enable access to the back-up power source responsive to the voltage provided

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by a primary power source dropping below a predetermined threshold (See Column 3, Lines 1-15).

(See Figure 1)

In regard to Claim 2, 13 & 17

- A second switching circuit, read on by transistor switch (26) enabling access to a primary source.

In regard to Claim 3 & 14

- The threshold detector (20) is configured to cause the first switching circuit to enable or terminate access to the main power source responsive to the voltage provided by a primary power source rising above a predetermined threshold (See Column 3, Lines 35-63 & Column 1, Line 62 to Column 2, Line 11).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Claims 4-6 & 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eitan et al. and Yates et al. (US 7,053,691).

Incorporating all arguments above of the threshold detector and switching system taught by Eitan, Eitan fails to teach a switch coupled between the first switch and the threshold detector (20).

Yates et al. (hereinafter referred to as Yates) teaches an electrical circuit for selecting a desired power source including a first transistor switch (X1) connected to an used to control a second transistor switch (X3) (See Column 3, Lines 17-59) in which the first switch includes a resistor and capacitor (See Column 4, Lines 5-30 & Figure 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate an additional switch as taught by Yates into the circuitry of Eitan between the inverter (22) and the switch (26). The motivation would have been to prevent a race condition between the two switches (See Yates, Column 4, Lines 5-15).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eitan et al., Yates, and Soenen et al. (US 5,961,577).

Incorporating all arguments above of the threshold detector and switching system taught by Eitan, Eitan fails to explicitly teach what comprises the inverter (22).

Soenen et al. (hereinafter referred to as Soenen) teaches the use of an inverting amplifier in which a comparator is used to compare a signal with a predetermined threshold and produce a logical output (See Column 2, Lines 16-38). It would have been obvious to one of ordinary skill in the art at the time the invention was made to

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incorporate the inverter comprising a comparator as taught by Soenen in stead of a traditional CMOS inverter. The motivation would have been to provide increased immunity to interference (See Column 3, Lines 40 to Column 4, Line 3).

Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eitan et al. and Singhal (US 6,853,574).

Incorporating all arguments above of the threshold detector and switching system taught by Eitan, Eitan teaches the claimed invention, specifically single transistor switches (26 & 24) in which to allow or block access to the back-up power supply (See Figure 1) except for multiple transistors connected in series wherein the emitter of a first transistor is connected to the collector of the other.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide multiple transistors in series, as taught by Singhal (See Figure 1), since it has been held that mere duplication of essential working parts of a device has no patentable significance unless a new and unexpected result is produced. (In re Harza, 124 USPQ 378, CCPA 1960).

Therefore, it would have been obvious to provide multiple switches in series as it is known in the art to provide series connected components for redundancy.

***Allowable Subject Matter***

Claims 21 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In regard to Claim 21

Prior art teaches a comparator (21) with a capacitor and resistor connected in series between the input and output (See Figure 2, Poletto et al. US 5,373,225) however there is a lack of motivation to combine the teachings of Poletto et al. with the threshold detector and switching system taught by Eitan.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Cavallari whose telephone number is (571)272-8541. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Sircus can be reached on (571)272-2800 x36. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

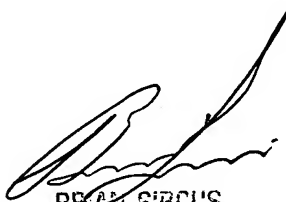


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel Cavallari

July 7, 2006



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